

United States
Circuit Court of Appeals
For the Ninth Circuit.

QUAN YUEI QUONG,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration
for the Port of San Francisco,

Appellee.

Transcript of Record.

Upon Appeal from the Southern Division of the
United States District Court for the
Northern District of California,
Second Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names of Attorneys of Record.

For Petitioner and Appellant:

ALFRED L. WORLEY, Esq., and

LOUIS GOLDBERG, Esq.,

San Francisco, Cal.

For Respondent and Appellee:

UNITED STATES ATTORNEY,

San Francisco, Cal.

In the Southern Division of the United States
District Court in and for the Northern District
of California, First Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG, on Ha-
beas Corpus.

Praeipie for Transcript on Appeal.

To the Clerk of Said Court:

Sir: Please make transcript of appeal in the
above-entitled case, to be composed of the follow-
ing papers, to wit:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Demurrer to petition for writ of habeas cor-
pus.
4. Minute order of July 15th, 1922.
5. Opinion and order overruling demurrer to
petition and directing writ to issue.
6. Writ of habeas corpus.

7. Order and judgment dismissing writ of habeas corpus, and remanding petitioner.
8. Substitution of attorneys for petitioner.
9. Notice of appeal.
10. Petition for appeal.
11. Assignment of errors.
12. Order allowing appeal.
13. Citation on appeal.
14. Stipulation and order respecting immigration record.
15. Clerk's certificate.

WORLEY & GOLDBERG,
Attorneys for Petitioner.

Service of the within praecipe for transcript on Appeal and receipt of a copy thereof is hereby admitted this 9th day of August, 1923.

JOHN T. WILLIAMS,
U. S. Attorney, Attorney for Appellee..

[Endorsed]: Filed Aug. 9, 1923. Walter B. Maling, Clerk. By C. M. Taylor, Deputy Clerk.
[1*]

In the Southern Division of the United States
District Court for the Northern District of
California.

No. (17,517).

In the Matter of QUAN YUEI QUONG, 13-13
Ex. SS. "Nanking," October 14, 1921, on
Habeas Corpus.

*Page-number appearing at foot of page of original certified Transcript of Record.

Petition for Writ of Habeas Corpus.

To the Honorable United States District Judge
now Presiding in the Above-entitled Court:

It is respectfully shown by the petition of H. Embrett Lee that Quan Yuei Quong, who is hereinafter in this petition referred to as the "detained," is unlawfully imprisoned, detained, confined and restrained of his liberty by Edward White, Commissioner of Immigration, for the port of San Francisco, at the United States Immigration Station at Angel Island, county of Marin, within the Southern Division of the United States District Court in and for the Northern District of California, and the said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit:

That the said detained is a Chinese person subject to and entitled to admission into the United States under the terms and provisions of the acts of Congress of May 6, 1882, July 5, 1884, November 3, 1893, and April 29, 1902, as amended and added to by Section V of the Deficiency Act of April 7, 1904, which said acts are commonly known and referred to as the Chinese Exclusions Laws; that said detained is the lawful minor son of Quan Sing;

That said father of Quan Yuei Quong is a lawfully domiciled merchant, and is actively engaged in said mercantile occupation as a member of the firm of Quong Tsue [2] Lung Company, 130 Southside Plaza, Los Angeles, California;

That said detained, as the lawful minor son of said Quan Sing, made application to enter the United States, being incoming passenger No. 13-13 Ex. SS. "Nan King," which arrived at the port of San Francisco, October 14th, 1921; that, notwithstanding the admitted fact of paternity as above set forth, said Commissioner of Immigration and the Department of Labor did not admit said detained to land into the United States; that the illegality of such imprisonment, restraint, detention and confinement consists of this, to wit:

That, subsequent to his application to be admitted into the United States, the said Quan Yuei Quong was refused and denied a fair hearing in good faith by the Secretary of Labor of the United States, by a manifest misuse of discretion committed to him by law, and through errors and mistakes of law, and against the spirit and letter of the law, and denied his right to enter the United States; and in this respect, your petitioner alleges:

(1) That the said Quan Yuei Quong made application to the Commissioner of Immigration at the port of San Francisco for admission to the United States as the lawful minor son of said domiciled merchant, Quang Sing, the father of said applicant, and said Commissioner of Immigration duly found that said relationship of father and son existed;

(2) That said Commissioner of Immigration also found that said applicant, Quan Yuei Quong, was a minor son of Quan Sing;

(3) That said Commissioner of Immigration duly found that Quan Sing was a merchant and a member of the firm of Quong Tsue Lung Company, located at 130 Southside Plaza, Los Angeles, California, but said Commissioner of Immigration determined, as the sole basis for deciding against the admission of the applicant, that there was a large number [3] of partners for the small amount of business transacted by said Quong Tsue Lung Company, and, therefore, determined that said applicant should not be admitted into the United States;

(4) That, thereafter, an appeal from said Commissioner denying said application was taken by and on behalf of said Quan Yuet Quong to said Secretary of Labor, and thereafter said Secretary of Labor affirmed said Commissioner's decision, denying said application for admittance to the United States;

(5) That said Quan Sing is actively engaged as a merchant in the establishment of said Quong Tsue Lung Company, 130 Southside Plaza, Los Angeles, California, and owns a large proportionate interest in said partnership; that he has been for many years last past engaged in said work and in said store, and has not been engaged in any other business or any other pursuit whatsoever; that said Quan Sing is a lawfully domiciled merchant, under and by virtue of the terms of Section 2, of the Act of November 3d, 1893, of the laws governing the admission of Chinese into the United States;

(6) That, heretofore, several members of said firm of Quong Tsue Lung Company, 130 Southside Plaza, Los Angeles, California, of which Quan Sing is a partner, have been allowed and permitted by the Department of Labor to bring in their minor sons and daughters and by virtue of the status of fathers and as domiciled merchants, said father being engaged only in said business of the Quong Tsue Lung Company; that the said father, Quan Sing, was surprised by said decision of the Department of Labor because he was lulled into the belief, by a former decision of the Department in permitting the children of his partners to be landed; that the status of said partners of the firm of Quong Tsue Lung Company has been thoroughly established in the Immigration Records;

(7) That said Quan Sing has discovered [4] evidence which he was unable to present at the hearing of said matter before the Bureau of Immigration, at Angel Island, California, and said Quan Sing believes that, if said evidence had been presented at the original hearing, said applicant would have been duly admitted and landed as the minor son of said Quang Sing;

That said Quan Sing has employed A P. Entenza, Attorney at Law, with offices in the Merchants Exchange Building, in the city and county of San Francisco, State of California, to present said newly discovered evidence to the Secretary of Labor at Washington, D. C., and that the said attorney is en route to Washington, D. C., where

he expects to present said newly discovered evidence in person, before said Department of Labor; that said attorney is entirely familiar with all the facts in the matter contained in the immigration records of applicant, and said attorney has stated that he verily believes that said newly discovered evidence is of great merit and that when presented and urged before said Secretary of Labor, said Secretary will reopen the case to accept said newly discovered evidence and correct the error committed, and that said matter, when so presented will bring about said reopening and said rehearing of the applicant's case.

Your petitioner therefore alleges upon his information and belief that the rights, privileges, exemptions and immunities guaranteed to the detained Chinese aliens, by the treaty between the United States and China, have been infringed upon and he has been denied the same treatment of equality and impartiality which is freely accorded to aliens of whatsoever nationality who are of the Caucasian race.

Your petitioner, therefore, alleges upon his information and belief that the said Commissioner of Labor, which acted in the case of the said detained, has abused the official discretion committed to it, and that its refusal to admit [5] the said detained into the United States was in excess of the authority committed to it by the said statutes, and was in abuse thereof.

Your petitioner has not in his possession, nor under his control, a copy of the hearings or pro-

ceedings hereinbefore mentioned. Your petitioner alleges, however, that he has set forth herein the basic facts upon which the prayer for relief is made, but however, should the respondent desire to produce the immigration records appertaining to the case of the said detained, your petitioner stipulates, that upon their production, the said records may be considered with the same force and effect as if filed with this petition and as exhibits in support and in explanation thereof.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein as prayed for, directed to the said Commissioner of Immigration, commanding him to produce the body of the said detained, together with the time and cause of his detention, before your Honor at the time and place to be therein specified, to the end that the cause of the detention of the said detained may be inquired into, and that he be relieved of restraint and that he may be discharged from custody and go hence without day.

Dated: April 21st, 1922.

WALTER E. HETTMAN,
Attorney for Petitioner. [6]

State of California,
City and County of San Francisco,—ss.

H. Embert Lee, being first duly sworn, deposes and says:

That he is the petitioner; that he is a friend of said father, Quan Sing, named in the foregoing petition; that he is familiar with the facts therein contained; that he files this petition for and on be-

half of said father, because said father is now in the city of Los Angeles, State of California; that he has read the same and knows the contents thereof; that the same is true of his own knowledge, except as to those matters therein stated on his information and belief, and as to those matters he believes it to be true.

H. EMBERT LEE.

Subscribed and sworn to before me this 21st day of April, 1922.

[Seal]

O. A. EGGERS,

Notary Public, in and for the City and County of
San Francisco, State of California.

[Endorsed]: Filed Apr. 21, 1922. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.
[7]

In the Southern Division of the United States
District Court for the Northern District of
California.

No. (17,517).

In the Matter of QUAN YUEI QUONG, 13-13
Ex. SS. "Nanking," October 14, 1921, on Habeas Corpus.

Order to Show Cause.

Upon reading and filing the verified petition of H. Embert Lee, praying for the issuance of the writ of habeas corpus,

IT IS HEREBY ORDERED that Edward White, as Commissioner of Immigration at the

port of San Francisco, at Angel Island, be and appear before the above-entitled court, Department No. One thereof, on Saturday, the 29th day of April, 1922, to show cause, if any he have, why a writ of habeas corpus should not issue in this matter and the petition be granted as prayed, and this at the hour of 10 o'clock of said day; and

IT IS FURTHER ORDERED that said Quan Yuei Quong be not removed from the jurisdiction of this Court until the further order of this Court; and

IT IS FURTHER ORDERED that a copy of this order be served upon said Edward White, or such other person having the said Quan Yuei Quong in custody as an officer of said Edward White.

Dated: April 21st, 1922.

WM. C. VAN FLEET,
United States District Judge.

[Endorsed]: Filed Apr. 21, 1922. W. B. Mal-
ing, Clerk. By C. W. Calbreath, Deputy Clerk.
[8]

In the Southern Division of the United States
District Court for the Northern District of
California, First Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG, on Ha-
beas Corpus.

Demurrer to Petition for Writ of Habeas Corpus.

Comes now the respondent, Edward White, Com-

missioner of Immigration, at the port of San Francisco, in the Southern Division of the Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

I.

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus, or for any relief thereon.

II.

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the trial of the said applicant are conclusions of law and not statements of the ultimate facts.

WHEREFORE, respondent prays that the writ of habeas corpus be denied.

United States Attorney.

Asst. United States Attorney.

[Endorsed]: Filed Jul. 15, 1922. W. B. Mal-
ing, Clerk. By Lyle S. Morris, Deputy Clerk.

[9]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Saturday, the 15th day of July, in the year of our Lord, one thousand nine hundred and twenty-two. Present: The Honorable MAURICE T. DOOLING, District Judge.

No 17,517.

In the Matter of QUAN YUEI QUONG, on Habeas Corpus.

(Minutes of Court—July 15, 1922—Hearing on Demurrer.)

This matter came on regularly this day for hearing on order to show cause as to the issuance of a writ of habeas corpus herein. W. E. Hettman, Esq., was present as attorney for petitioner and detained. P. A. Robbins, Esq., was present as attorney for and on behalf of respondent, and filed a demurrer to petition herein. After hearing attorneys for respective parties, the Court ordered matter submitted to abide the decision to be rendered in the matter of Quan Yuei Len, on habeas corpus, No. 17,518. [10]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 19th day of July, in the year of our Lord, one thousand nine hundred and twenty-two. Present: the Honorable MAURICE T. DOOLING, District Judge.

No. 17,517.

In the Matter of QUAN YUEI QUONG, on Habeas Corpus.

(Minutes of Court—July 19, 1922—Order Overruling Demurrer and Granting Writ.)

Pursuant to opinion this day filed, it is ordered that the Demurrer to petition for writ of habeas corpus be and the same is hereby overruled, and that the writ of habeas corpus issue, as prayed for, returnable July 29, 1922, at 10 A. M. [11]

In the Southern Division of the United States District Court for the Northern District of California, First Division

No. 17,517.

In the Matter of QUAN YUEI QUONG, on Habeas Corpus.

(Opinion and Order Overruling ¹Demurrer and
Granting Writ.)

WALTER E. HETTMAN, Esq., and SCRIVNER &
HETTMAN, Attorneys for Petitioner.

JOHN T. WILLIAMS, Esq., United States Attor-
ney and BEN F. GEIS, Esq., Assistant United
States Attorney, Attorneys for Respondent.

ON DEMURRER TO PETITION FOR A WRIT
OF HABEAS CORPUS.

The only thing decided by the Department upon the appeal herein, and the reason given for the exclusion, was the fact that the firm of which petitioner's father claimed to be a member had too many members for the amount of business transacted. But the law does not seem to make that the test. *Lee Kan vs. U. S.*, 62 Fed. 914.

The demurrer is overruled and the writ will issue as prayed for returnable on July 29th, 1922, at 10 o'clock A. M.

July 19th, 1922.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Jul. 19, 1922. Walter B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.
[12]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG, on Habeas Corpus.

Writ of Habeas Corpus.

The President of the United States of America to the Commissioner of Immigration, Port of San Francisco, Calif., Angel Island, California. GREETING:

YOU ARE HEREBY COMMANDED that you have the body of the said person by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said person shall be called or charged, before the Honorable Maurice T. Dooling, Judge of the United States District Court for the Northern District of California, at the courtroom of said Court, in the city and county of San Francisco, California, on the 29th day of July, A. D. 1922, at 10 o'clock A. M., to do and receive what shall then and there be considered in the premises.

And have you then and there this writ.

WITNESS, the Honorable MAURICE T. DOOLING, Judge of the said United States District Court, and the seal thereof, at San Francisco,

California, in said District, on the 19th day of July, A. D. 1922.

[Seal]

WALTER B. MALING,
Clerk.

By C. W. Calbreath,
Deputy Clerk.

WALTER E. HETTMAN, Esq.,
Attorney for Petitioner. [13]

Return of Service of Writ.

United States of America,
Northern District of Calif.,—ss.

I hereby certify and return that I served the annexed writ of habeas corpus on the therein-named Com. of Immigration, port of San Francisco, Calif., by mailing true and correct copy thereof to Edward White, Com. of Immigration at Angel Island, in said District on the 20th day of July, A. D. 1922.

J. B. HOLOHAN,
U. S. Marshal.
By Fred S. Field,
Sal. Deputy.

[Endorsed]: Filed Jul. 21, 1922. Walter B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.
[14]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG, on Habeas Corpus.

Return to Writ of Habeas Corpus.

Comes now Edward White, Commissioner of Immigration at the port of San Francisco, by P. A. Robbins, Immigrant Inspector, and in return to said petition for writ of habeas corpus, admits, denies and alleges as follows:

I.

Denies that Quan Yuei Quong, referred to as the detained, is unlawfully imprisoned, detained, confined and restrained or is unlawfully imprisoned, or detained, or confined or restrained of his liberty by Edward White, Commissioner of Immigration for the port of San Francisco or by any other person or persons whatever at the United States Immigration Station at Angel Island, County of Marin, State and Northern District of California, or elsewhere or at all so imprisoned, or detained, or confined, or restrained, but in this connection alleges the fact respecting the imprisonment, detention, confinement and restraint of the said Quan Yuei Quong to be that the said Quan Yuei Quong is detained by the said Commissioner of Immigration at the Immigration Station at Angel Island, County of Marin, State and Northern Dis-

trict of California, for deportation to China pursuant to and under the authority of an order of deportation regularly and lawfully made, given and entered by E. J. Henning, Assistant Secretary of Labor, denying the application of the said Quan Yuei Quong to enter the United States as appears from Respondent's Exhibit "A," heretofore filed as an exhibit in this case, and which said record is hereby [15] referred to and made a part of this return with the same full force and effect as if set out in full herein.

II.

Denies that the said imprisonment, detention, confinement, and restraint or the said imprisonment or detention or confinement or restraint are or is illegal.

III.

Denies that the said detained is subject to or entitled to admission to the United States under the terms and provisions or terms or provisions of the Act of Congress commonly known or referred to as the "Chinese Exclusion Laws," and denies that said detained is the lawful minor son of Quan Sing, and in this connection alleges the fact to be that the said Commissioner of Immigration at the port of San Francisco, found and determined that the said detained was not the son of the said Quan Sing, and further alleges that the question of relationship between the said detained and the said Quan Sing was not passed upon or determined by the said Secretary of Labor.

IV.

Denies that Quan Sing, the said father of said Quan Yuei Quong is a lawfully domiciled merchant or is actively engaged in said mercantile occupation as a member of the firm of Quong Tsue Lung Company, No. 130 Southside Plaza, Los Angeles, California.

V.

Denies that said Quan Yuei Quong was refused and denied or refused or denied a fair hearing in good faith by the Secretary of Labor of the United States.

VI.

Denies that said Commissioner of Immigration duly or at all found that the relationship of father and son or father or son existed between the said Quan Yuei Quong and Quan Sing.

VII.

Denies that the said Commissioner of Immigration found [16] that Quan Yuei Quong was or is the minor son of Quan Sing.

VIII.

Denies that said Commissioner of Immigration duly or at all found that Quan Sing was a merchant or a member of the firm of Quong Tsue Lung Company.

IX.

Denies that said Quan Sing is actively engaged as a merchant in the establishment of said Quong Tsue Lung Company, Los Angeles, California, and denies that said Quan Sing is a lawfully domiciled merchant.

X.

Denies that the rights, privileges, exemptions and immunities, or the rights, or privileges, or exemptions, or immunities guaranteed to the detained Chinese by the treaty between the United States and China have been infringed upon, and denies that he has been denied the same term of equality or impartiality which is freely accorded to aliens of whatsoever nationality who are of the Caucasian race.

XI.

Denies that the said Commission of Labor which acted in the case of the said detained has abused the official discretion committed to it, or that its refusal to admit the said detained into the United States was or is in excess of the authority committed to it by the said statutes or was in abuse thereof.

WHEREFORE respondent prays that the writ of habeas corpus heretofore issued herein be discharged and the said Quan Yuei Quong be remanded to the custody of respondent for deportation, and for such other and further relief as to this Court seems equitable and just.

JOHN T. WILLIAMS,
United States Attorney,
BEN F. GEIS,

Asst. United States Attorney. [17]

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

P. A. Robbins, being first duly sworn, deposes

and says: That he is a Chinese and Immigrant Inspector connected with the immigration service for the port of San Francisco, and has been specially directed to appear for and represent the respondent, Edward White, Commissioner of Immigration, in the within-entitled matter; that he is familiar with all the facts set forth in the within return to the writ of habeas corpus and knows the contents thereof; that of affiant's knowledge the matters set forth in the return to the writ of habeas corpus are true, excepting those matters which are stated on information and belief, and that as to those matters he believes it to be true.

P. A. ROBBINS.

Subscribed and sworn to before me this 22 day of July, 1922.

[Seal]

T. L. BALDWIN,
Deputy Clerk, U. S. District Court, Northern District of California.

Due service and receipt of a copy of the within is hereby acknowledged this 22d day of July, 1922.

WALTER E. HETTMAN,

Atty. for Petitioner.

[Endorsed]: Filed Jul. 22, 1922. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [18]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG, on Habeas Corpus.

(Order Dismissing Writ of Habeas Corpus.)

WALTER E. HETTMAN, Esq., Attorney for Petitioner.

JOHN T. WILLIAMS, Esq., United States Attorney and BEN. F. GEIS, Esq., Assistant United States Attorney, Attorneys for Respondent.

ON RETURN TO PETITION FOR A WRIT OF HABEAS CORPUS.

This is one of those cases in which the bureau having found the facts against the applicant, such finding is conclusive on the Court, as the finding is not without support. The writ of habeas corpus heretofore issued is dismissed and the petitioner remanded.

February 12th, 1923.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Feb. 12, 1923. W. B. Mal-
ling, Clerk. By C. W. Calbreath, Deputy Clerk.
[19]

In the Southern Division of the United States
District Court for the Northern District of
California.

No. 17,517.

In the Matter of QUAN YUEI QUONG, 13-13
Ex. SS. "Nanking," October 14, 1921, on
Habeas Corpus.

**Substitution of Attorneys for Petitioner and De-
tained.**

I hereby consent to the substitution of Alfred
L. Worley and Louis Goldberg and hereby substi-
tute them, as attorneys for the petitioner and de-
tained herein, in my place and stead.

Dated, April 4th, 1923.

WALTER E. HETTMAN,
Attorney for Petitioner and Detained.

We hereby accept the foregoing substitution
and hereby appear herein as attorneys for the
petitioner and detained herein.

Dated, April 4th, 1923.

ALFRED L. WORLEY,
LOUIS GOLDBERG,
Attorneys for Petitioner and Detained.

Service of the within substitution of attorneys
and receipt of a copy thereof is hereby admitted
this 6th day of April, 1923.

JOHN T. WILLIAMS,
United States Attorney for the Northern District
of California.

[Endorsed]: Filed Apr. 7, 1923. Walter B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.
[20]

In the District Court of the United States, in and for the Northern District of California, Southern Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG (13-13 Ex. SS. "Nanking," October 14, 1921), on Habeas Corpus.

Notice of Appeal.

To the Clerk of the above-entitled Court, and to the Hon. John T. Williams, United States Attorney for the Northern District of California:

You and each of you will please take notice that Quan Yuei Quong, the detained and petitioner herein, does hereby appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit from the order and judgment made and entered herein on the 12th day of February, 1923, dismissing the writ of habeas corpus issued herein and remanding the detained.

Dated, San Francisco, California, April 11th, 1923.

ALFRED L. WORLEY,
LOUIS GOLDBERG,

Attorneys for Petitioner, Detained and Appellant
Herein. [21]

In the District Court of the United States, in and for the Northern District of California, Southern Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG (13-13 Ex. SS. "Nanking," October 14, 1921), on Habeas Corpus.

Petition for Appeal.

Comes now Quan Yuei Quong, the detained, petitioner and appellant herein, and says:

That on the 12th day of February, 1923, the above-entitled Court made and entered its order and judgment herein, dismissing the writ of habeas corpus issued herein and remanding the detained, in which said order and judgment certain errors are made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herein.

WHEREFORE this appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States for the Ninth Circuit for a correction of the errors so complained of, and further that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the United States Circuit Court of Appeals for the Ninth Circuit.

It is further prayed that during the pendency of the said appeal that the said Quan Yuei Quong

may retain his liberty and remain at large under the order heretofore made and the bond heretofore given herein, provided that he remain within the State of California, and render himself in execution of whatever judgment is finally entered herein.

Dated, San Francisco, California, April 11th, 1923.

ALFRED L. WORLEY,

LOUIS GOLDBERG,

Attorneys for Petitioner, Detained and Appellant
Herein. [22]

In the District Court of the United States, in and
for the Northern District of California, Southern
Division.

No. 17,517.

In the Matter of QUAN YUET QUONG (13-13
Ex. SS. "Nanking," October 14, 1921), on
Habeas Corpus.

Assignment of Errors.

Comes now Quan Yuet Quong, the detained, petitioner and appellant herein, by his attorneys, Alfred L. Worley, and Louis Goldberg, in connection with his petition for an appeal herein, and assigns the following errors which he avers occurred upon the trial or hearing of the above-entitled cause, and upon which he will rely upon appeal to the Circuit Court of Appeals for the Ninth Circuit, to wit:

First. That the Court erred in dismissing the writ of habeas corpus issued herein and in remanding the appellant.

Second. That the Court erred in not holding that the appellant, Quan Yuei Quong, had not been given, but had been refused and denied, a fair hearing in good faith by the Commissioner of Immigration of the port of San Francisco and by the Secretary of Labor of the United States.

Third. That the Court erred in holding that the Secretary of Labor having found the facts against the appellant on his application before the Immigration Department to enter the United States, such finding is not without support in the evidence and is and was conclusive on the Court.

Fourth. That the Court erred in not holding that the appellant, Quan Yuei Quong, was entitled to enter the United States as a minor son of a Chinese merchant lawfully domiciled and resident therein.

Fifth. That the Court erred in holding that the Secretary of Labor and the Commissioner of Immigration of the [23] port of San Francisco had accorded the appellant, Quan Yuei Quong, a fair hearing in the matter of his application to enter the United States as a minor son of a Chinese merchant lawfully domiciled and resident therein.

Sixth. That the Court erred in not holding that the Commissioner of Immigration and the Secretary of Labor had abused the discretion vested in them in the conduct and in the course of the hearing of the application of the appellant, Quan Yuei Quong, to enter the United States as a minor son of a Chinese merchant lawfully domiciled and resident in the United States.

Seventh. That the Court erred in not discharging the appellant, Quan Yuet Quong, from custody, and in not permitting him to enter the United States as a minor son of a Chinese merchant lawfully domiciled and resident therein.

WHEREFORE, the appellant prays that the judgment and order of the United States District Court, in and for the Northern District of California, Southern Division, Division No. 1, made and entered herein in the office of the clerk of said court on the 12th day of February, 1923, dismissing the writ of habeas corpus issued herein and remanding the detained, be reversed, and that this cause be remitted to the lower court with instructions to discharge the said Quan Yuet Quong from custody, or grant him a new trial before the lower court.

And it is further prayed that the said Quan Yuet Quong may remain on bond in the sum of One Thousand Dollars (\$1,000.) previously given herein, during the future and further proceedings to be had herein.

Dated, San Francisco, California, April 11th, 1923.

ALFRED L. WORLEY,
LOUIS GOLDBERG,

Attorneys for Appellant.

Service of the within notice of appeal, petition for appeal and assignment of errors, and receipt of copies thereof, are hereby admitted this 11th day of April, 1923.

JOHN T. WILLIAMS,
United States Attorney for the Northern District
of California.

[Endorsed]: Filed Apr. 11, 1923. Walter B. Maling, Clerk. By C. M. Taylor, Deputy Clerk.
[24]

In the District Court of the United States, in and for the Northern District of California, Southern Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG (13-13 Ex. SS. "Nanking," October 14, 1921), on Habeas Corpus.

Order Allowing Petition for Appeal.

On this 12th day of April, 1923, comes Quan Yuei Quong, the detained, petitioner and appellant herein, by his attorneys, Alfred L. Worley and Louis Goldberg, and having previously filed herein, does present to this Court his petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment made and entered herein on the 12th day of February, 1923, dismissing the writ of habeas corpus issued herein and remanding the detained, intended to be urged and prosecuted by him, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had in the premises as may seem proper.

IN CONSIDERATION WHEREOF, this Honorable Court does hereby allow the appeal herein prayed for, and orders and directs that the execution of the order of deportation made by the Secretary of Labor, be stayed, pending a hearing of the said case in the United States Circuit Court of Appeals for the Ninth Circuit, and it is further ordered that the said Quan Yuei Quong may remain on bond in the sum of One Thousand Dollars (\$1,000) previously given herein during the further and future proceedings to be had herein, provided that he remain within the [25] State of California, and render himself in execution of whatever judgment is finally entered herein.

Dated, April 12, 1923.

FRANK H. RUDKIN,

United States District Judge.

Service of the within order allowing petition for appeal, and receipt of a copy thereof, are hereby admitted this 12 day of April, 1923.

JOHN T. WILLIAMS,

United States Attorney for the Northern District of California.

[Endorsed]: Filed Apr. 12, 1923. Walter B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.
[26]

In the District Court of the United States, in and for the Northern District of California, Southern Division.

No. 17,517.

In the Matter of QUAN YUEI QUONG on Habeas Corpus.

Stipulation and Order Respecting Withdrawal of Immigration Record.

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the petitioner and appellant herein, and the attorney for the respondent and appellee herein, that the original immigration record filed as Exhibits in that certain proceeding, in this Court, entitled "In the Matter of Quan Yuei Len, on Habeas Corpus," and numbered 17,518 in the records of the Clerk's office of this Court, and marked respondent's Exhibits "A," "B" and "C," and referred to as Exhibit "A" in the return to the writ of Habeas Corpus herein, may be withdrawn from the files of the clerk of the above-entitled court and filed with the Clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial Circuit, there to be considered as part and parcel of the record on appeal in the above-entitled case with the same force and effect as if embodied in the transcript of the record and so certified to by the Clerk of this Court.

Dated at San Francisco, California, August 9th, 1923.

WORLEY & GOLDBERG,

Attorneys for Petitioner and Appellant.

GARTON D. KEYSTON,

Asst. U. S. Atty., United States Attorney for the
Northern District of California, Attorney for
Respondent and Appellee. [27]

ORDER.

Upon reading and filing the foregoing stipulation, it is hereby ordered that the said immigration record therein referred to may be withdrawn from the office of the clerk of this Court and filed in the office of the clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial Circuit, said withdrawal to be made at the time the record on appeal herein is certified by the clerk of this Court.

BLEDSON,

United States District Judge.

Dated, San Francisco, California, August 9th, 1923.

Service of the within stipulation and order respecting withdrawal of immigration record and receipt of a copy thereof is hereby admitted this 9th day of August, 1923.

JOHN T. WILLIAMS,

U. S. Attorney, Attorney for Appellee.

[Endorsed]: Filed Aug. 9, 1923. Walter B. Maling, Clerk. By C. M. Taylor, Deputy Clerk.
[28]

Certificate of Clerk U. S. District Court to Transcript on Appeal.

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 28 pages, numbered from 1 to 28, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the Matter of Quan Yuei Quong, No. 17517, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance with the praecipe for transcript on appeal (copy of which is embodied herein), and the instructions of the attorney for the petitioner and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of nine dollars and sixty-five cents (\$9.65) and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the original citation on appeal issued herein. (Page 30.)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 20th day of September, A. D., 1923.

[Seal]

WALTER B. MALING,

Clerk,

By C. M. Taylor,
Deputy Clerk. [29]

(Citation on Appeal.)

United States of America,—ss.

The President of the United States, to Edward White, Commissioner of Immigration for the Port of San Francisco, and John T. Williams, United States Attorney for the Northern District of California, his attorney herein, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Southern Division of the Northern District of California, First Division, wherein Quan Yuei Quong is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable ———, United States Circuit Judge for the Ninth Circuit this 9th day of August, A. D. 1923.

WM. W. MORROW,
United States Circuit Judge.

Service of the within citation and receipt of a copy thereof is hereby admitted this — day of August, 1923.

JOHN T. WILLIAMS,
U. S. Attorney, Attorney for Appellee.
C.

This is to certify that a copy of the within Citation on Appeal was lodged with me as the Clerk of this court upon the 9th day of August, 1923.

W. B. MALING,
Clerk U. S. Dist. Court in and for the Nor. Dist. of
California at San Francisco,

By C. M. Taylor,
Deputy Clerk.

[Endorsed]: No. 17,517. United States District Court for the Southern Division of the Northern District of California, First Division. In re Quan Yuei Quong, on Habeas Corpus, Appellant, vs. Edward White, Commissioner of Immigration for the Port of San Francisco, Appellee. Citation on Appeal. Filed Aug. 9, 1923. Walter B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [30]

[Endorsed]: No. 4111. United States Circuit Court of Appeals for the Ninth Circuit. Quan Yuei Quong, Appellant, vs. Edward White, as Commissioner of Immigration for the Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United

States District Court for the Northern District of California, Second Division.

Filed September 20, 1923.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,

Deputy Clerk.

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. 17,517.

QUAN YUEI QUONG, on Habeas Corpus,
Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration
at the Port of San Francisco,

Appellee.

**Order Extending Time Thirty Days to File Record
and Docket Cause—Dated August 9, 1923.**

Good cause appearing therefor, and upon motion of Alfred L. Worley, Esq., and Louis Goldberg, Esq., the attorneys for appellant herein:

IT IS HEREBY ORDERED that the time within which to docket the appeal herein in the office of the Clerk of the United States Circuit Court for the Ninth Circuit may be, and the same is hereby extended for thirty days from and after the date hereof.

Dated at San Francisco, California, August 9, 1923.

WM. W. MORROW,
Judge of the United States Circuit Court of Appeals,
Ninth Circuit.

Service of the within order extending time to file record and docket cause and receipt of a copy thereof is hereby admitted this 9th day of August, 1923.

JOHN T. WILLIAMS,
U. S. Attorney, Attorney for Appellee.
C.

No. 17517. In the Southern Division of the United States District Court in and for the Northern District of California, First Division. In the Matter of Quan Yuei Quong, on Habeas Corpus. Order Extending Time to File Record and Docket Cause. Filed Aug. 9, 1923. F. D. Monckton, Clerk.

[Endorsed]: No. 4111. United States Circuit Court of Appeals for the Ninth Circuit. Order under Subdivision 1 of Rule 16 Enlarging Time to and Including September 9, 1923, to File Record and Docket Cause. Refiled Sep. 20, 1923. F. D. Monckton, Clerk.

In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17517.

QUAN YUEI QUONG, on Habeas Corpus,
Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,
Appellee.

Order Extending Time Thirty Days to File Record and Docket Cause—Dated September 6, 1923.

Good cause appearing therefor, and upon motion of Alfred L. Worley, Esq., and Louis Goldberg, Esq., the attorneys for appellant herein:

IT IS HEREBY ORDERED that the time within which to docket the appeal herein in the office of the Clerk of the United States Circuit Court for the Ninth Circuit may be, and the same is hereby extended for thirty days from and after the date hereof.

Dated at San Francisco, California, September 6, 1923.

W. H. HUNT,
Judge of the United States Circuit Court of Appeals, Ninth Circuit.

Service of the within order extending time to file record and docket cause, and receipt of a copy

thereof is hereby admitted this 6th day of September, 1923.

JOHN T. WILLIAMS,
United States District Attorney for the Northern
District of California.

No. 17517. In the Southern Division of the United States District Court in and for the Northern District of California, First Division. Quan Yuei Quong, on Habeas Corpus, Appellant, vs. Edward White, as Commissioner of Immigration at the Port of San Francisco, Appellee. Order Extending Time to File Record and Docket Cause. Filed Sep. 6, 1923. F. D. Monckton, Clerk.

[Endorsed]: No. 4111. United States Circuit Court of Appeals for the Ninth Circuit. Order under Subdivision 1 of Rule 16 Enlarging Time to and Including October 6, 1923, to File Record and Docket Cause. Refiled Sep. 20, 1923. F. D. Monckton, Clerk.

